

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
RYAN S. HERNANDEZ,
Defendant.

NO. CR19-259-JCC

[PROPOSED]

**PRELIMINARY
ORDER OF FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Ryan S. Hernandez's interest in the following property:

1. One Seagate external hard drive, serial no. Z84112WS;
2. One Apple Macbook, serial no. C02MN8TDFD57;
3. Nintendo Switch console, serial no. XAW10001300634;
4. Nintendo Switch console, serial no. XAW10021377616;
5. IS-Nitro-Emulator, serial no. 08050639; and,
6. NDEV wireless device, serial no. NMA20089065.

1 The Court, having reviewed the United States' Motion, as well as the other papers
 2 and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of
 3 Forfeiture is appropriate because:

- 4 • The above-identified electronics are forfeitable pursuant to 18 U.S.C.
 5 § 1030(i), as they facilitated the Defendant's commission of Computer
 6 Fraud and Abuse, in violation of 18 U.S.C. §§ 1030(a)(2)(C) and (c)(2)(B);
 7 and,
- 8 • Pursuant to the plea agreement he entered on January 31, 2020, the
 9 Defendant agreed to forfeit his interest in the above-identified electronics
 10 pursuant to 18 U.S.C. § 1030(i) (Dkt. No. 11, ¶ 9).

11
 12 NOW, THEREFORE, THE COURT ORDERS:

13 1) Pursuant to 18 U.S.C. § 1030(i) and his plea agreement, the Defendant's
 14 interest in the above-identified electronics is fully and finally forfeited, in its entirety, to
 15 the United States;

16 2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
 17 be final as to the Defendant at the time he is sentenced, it will be made part of the
 18 sentence, and it will be included in the judgment;

19 3) The United States Department of Justice, and/or its authorized agents or
 20 representatives ("DOJ"), shall maintain the electronics in its custody and control until
 21 further order of this Court;

22 4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
 23 United States shall publish notice of this Preliminary Order and its intent to dispose of the
 24 electronics as permitted by governing law. The notice shall be posted on an official
 25 government website—www.forfeiture.gov—for at least thirty (30) days. For any person
 26 known to have alleged an interest in the electronics, the United States shall also, to the
 27 extent possible, provide direct written notice to that person. The notice shall state that any
 28 person, other than the Defendant, who has or claims a legal interest in the electronics

1 must file a petition with the Court within sixty (60) days of the first day of publication of
2 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)
3 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
4 interested persons that the petition:

- 5 a. shall be for a hearing to adjudicate the validity of the petitioner's
6 alleged interest in the electronics;
- 7 b. shall be signed by the petitioner under penalty of perjury; and,
- 8 c. shall set forth the nature and extent of the petitioner's right, title, or
9 interest in the electronics, as well as any facts supporting the
petitioner's claim and the specific relief sought.

10 5) If no third-party petition is filed within the allowable time period, the
11 United States shall have clear title to the electronics, and this Preliminary Order shall
12 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

13 6) If a third-party petition is filed, upon a showing that discovery is necessary
14 to resolve factual issues it presents, discovery may be conducted in accord with the
15 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
16 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
17 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
18 adjudication; and,

19 7) The Court will retain jurisdiction for the purpose of enforcing this
20 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
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1 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
2 Fed. R. Crim. P. 32.2(e).

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4 IT IS SO ORDERED.

5 DATED this _____ day of November 2020.
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9 THE HON. JOHN C. COUGHENOUR
10 UNITED STATES DISTRICT JUDGE
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15 Presented by:

16
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